Constitutional Court Judgment No. 134/2011 of July 20 (Unofficial translation)

The Constitutional Court, in full bench, composed of the Honour Judges Mr. Pascual Sala Sánchez, as President, Mr. Eugeni Gay Montalvo, Mr. Javier Delgado Barrio, Ms. Elisa Pérez Vera, Mr. Ramon Rodriguez Arribas, Mr. Manuel Aragón Reyes, Mr. Pablo Pérez Tremps, Ms. Adela Asua Batarrita, Mr. Francisco José Hernando Santiago, Mr. Luis Ignacio Ortega Alvarez, and Mr. Francisco Pérez de los Cobos Orihuel, has pronounced

IN THE NAME OF THE KING

the following

JUDGMENT

In the action of unconstitutionality no. 1451-2002 brought by the Parliament of Catalonia against Articles 3.2; 19; 20.2; 22.2; 23.2 and paragraph two of the sole additional provision —amending article 146.1 of the Law on local government finances— of the Law 18/2001, dated December 12th, on Budgetary Stability; and against Articles 2, 5 (second paragraph), 6.3, 6.4, 8.2, 8.3, 8.4, 8.5, 8.7 and 8.8; and sections one, two, three and four of its sole additional provision —as regards certain amendments to the Organic Law on the Financing of the Autonomous Communities— of Law 5/2001, dated December 13th, supplementary to the Law on Budgetary Stability. The State Solicitor and the counsel of the Cortes Generales (National Parliament), head of the legal department of the Senate, have been parties to the proceedings. The judgement has been drawn up the Judge Elisa Perez Vera, and expresses the opinion of the Court.

II. Grounds

1. The present action of unconstitutionality is brought by the Parliament of Catalonia against various provisions of the Law on Budgetary Stability and the Organic Law 5/2001, supplementary to the Law on Budgetary Stability.

The challenged provisions of Law 18/2001 are as follows: Articles 3.2, 19, 20.2, 22.2, 23.2, and paragraph 2 of the sole additional provision. As for the Organic Law 5/2001, Articles 2, 5.2, 6.3, 6.4, 8.2, 8.3, 8.4, 8.5, 8.7 and 8.8 and its sections one, two, three and four of its sole additional provision are contested.

The Parliament of Catalonia considers that both Laws are closely interconnected and argues that the contested provisions disregard the political and financial autonomy of Catalonia recognized by Articles 137 and 156.1 of the Spanish Constitution ("Constitución Española" in Spanish: CE) as well as the autonomy of local governments (Articles 137, 140 and 142 CE). The petitioner argues that the appealed Laws also infringe the financial supervision that the Generalitat of Catalonia exercise over local authorities as foreseen in Article 48.1 of the Statute of Autonomy of Catalonia approved in 1979.

The State Solicitor and the counsel of the Cortes Generales sustain that the contested Laws comply with the Constitution since they were approved as an exercise of the competences recognized to the central State by Article 149.1.13 CE. For specific aspects, they refer to rules 11, 14 and 18 of the same Article 149.1 CE.

4. We will analyse now the first objection to the challenged Laws. The Parliament of Catalonia states that these Laws infringe the political and financial autonomy of Catalonia (Articles 137 and 156.1 of the Statute of Autonomy of Catalonia) because they go beyond the limits of the competence reserved to the State by Article 149.1.13 of the Constitution. This argument is used

against Article 3.2 of the Law 18/2001 on Budgetary Stability and Articles 2, 5.2, 6.3, 6.4 and sections one, three and four of the additional provision of the Organic Law 5/2001.
These legal provisions dispose as follows.
-Article 3 of the Law 18/2001 (Budgetary Stability Principle):
"...
2. Regarding the subjects mentioned in article 2.1, budgetary stability will be understood as a position of balance or surplus, based on the financial capacity as defined by the European system of national and regional accounts and the conditions laid down by each of the public administrations."
-Article 2 of the Organic Law 5/2001 (General Principles):
"The principles of budgetary stability, pluriannuality, transparency, efficiency in the allocation and use of public resources, as they are defined in Law 18/2001shall apply to the Autonomous Communities in the manner established in this Organic Law."
-Article 5 of the Organic Law 5/2001 (Fiscal and Financial Policy Council of the Autonomous Communities):
"... Both the Fiscal and Financial Policy Council of the Autonomous Communities and the Autonomous Communities on it represented must respect, in any case, the objective of budgetary stability regulated in Article 8 of the Law 18/2001, on Budgetary Stability."
-Article 6 of the Law 5/2001 (Objective of budgetary stability for the Autonomous Communities):
"...
3. Within a month since the adoption by the Government of the objective of budgetary stability in the conditions laid down in Article 8.1 of the Law 18/2001, on Budgetary Stability, the Fiscal and Financial Policy Council of the Autonomous Communities shall determine the objective of budgetary stability corresponding to each of the autonomous communities.
4. If within the period laid down in the preceding paragraph the Fiscal and Financial Policy Council of the Autonomous Communities does not reach an agreement on the individual objectives of budgetary stability, each of the Autonomous Communities shall be obliged to draw up and liquidate its budget in situation, at least, of budget balance, computed in the terms provided for in Article 3.2 of the Law 18/2001 on Budgetary Stability."
-Sole additional provision of the Organic Law 5/2001:
"One. The letter b) of paragraph 1 of article 2 of the organic Law 8/1980, September 22nd, on the Financing of the Autonomous Communities, is modified in the following terms:
b) To the State belongs the responsibility of the guarantee of economic balance, through general economic policy as specified in Articles 40.1, 131 and 138 of the Constitution. The State is responsible for adopting appropriate measures to achieve internal and external economic and budgetary stability, as well as its harmonious development between the different parts of Spanish territory. For this purpose, budgetary stability will be understood as a position of balance or surplus computed in terms of 'net lending' as defined by the European system of national and regional accounts.
...
Three. Paragraph 3 of Article 14 of the Organic Law 8/1980, September 22nd, on the Financing of the Autonomous Communities, is amended as follows:
3. To arrange credit operations abroad and for the issuance of debt or any other appeal of public credit, the Autonomous Communities require authorization from the State. To grant this authorization, the State shall take into account the compliance with the principle of budgetary stability as defined in Article 2.1 b) of this Law.
Agreements or issuance transactions in euros carried out within the European Union territory shall not be considered external financing for the aforementioned authorisation.

Credit operations referred to in the previous paragraphs require authorization from the State in case of non-compliance with the budgetary stability objectives as shown in the information supplied by the Autonomous Communities.

Four. Paragraph 1 of Article 21 of the Organic Law 8/1980, September 22nd, on the Financing of the Autonomous Communities, is amended as follows:

1. The budgets of the Autonomous Communities shall be annual and extend over the same period as those of the State. They will seek to comply with the principle of budgetary stability, including all the expenses and incomes of the agencies and entities belonging to Autonomous Communities, and they will indicate the amount of the tax benefits affecting the taxes of the concerned Autonomous Community."

Although the Parliament of Catalonia makes a general criticism of all these provisions, its action is directed mainly against Article 3.2 of the Law 18/2001. The Parliament of Catalonia rejects that the principle of budgetary stability principle imposed to public sector must be understood as a situation of budgetary balance or surplus as regulated in article 3.2. The objective of these provisions is to develop the Stability and Growth Pact established in the regulation that develops Article 104 of the European Union Treaty. However, the contested provisions are not consistent with the European regulations because while these emphasize the idea of "not excessive deficits" —which focuses on certain deficit-gross domestic product ratio—, the challenged provisions transform this idea by setting it as "not deficit" or even budgetary "surplus". The claimant rejects this change of orientation, because it leads to a reduction of the public deficit affecting negatively the gross domestic product, i.e., economic growth. Consequently, the Parliament of Catalonia argues that there must be a greater margin so that through investment (funded through recourse to credit, income and expenditure) will not be conditioned in a way as rigid as the provisions contested do. In conclusion, the lack of flexibility of Law 18/2001 and Organic Law 5/2001 determines that they exceed the scope of Article 149.1.13 CE, ignoring the political and financial autonomy of the Generalitat of Catalonia.

The State Solicitor and the counsel of the Cortes Generales (National Parliament) don't subscribe to this approach. The former we are considering economic policy measures connected with the Stability and Growth Pact. In order to be effective these measures must be imposed on public administrations. He also specifies that the established legal framework does not affect the decisions of the autonomous budgetary authority over the incomes and expenditure previsions. Moreover, the State Solicitor rejects that the European Union's objective is to reach a budget deficit not exceeding 3 per cent, since the Stability and Growth Pact aims to reach a position approaching balance or a surplus although it does not impose specific measures to achieve the common goal on member States. In short, these are, in his opinion, economic policy measures that entail adopting annual decisions which have to be approved by the Cortes Generales according to the Article 149.1.13 of the Constitution. These decisions allow certain margins of budgetary flexibility accompanied by corrective actions. In any case, affirms the representation of the National Government, the budgetary constraints do not breach the financial autonomy of the Autonomous Communities, since this autonomy is constitutionally conditioned to its coordination with the public finances of the State and to the exercise of other competences of the State, mentioning the competences regulated in Article 149.1.13 CE and, for more detailed aspects, Articles 149.1.11 (basic regulation of the banking system) and 149.1.14 (general government finances) CE. The Senate's legal representation shares the opinions of the State Solicitor, also rejecting that the challenged regulations are not consistent with the European Law, since this aims at achieving either a budgetary balance or a surplus, though it leaves the member States considerable space to implement these measures. He affirms that there is no infringement to the financial autonomy of the Autonomous Communities, but rather a process to incorporate the European Law.

5. It is important to begin by pointing out the relationship between the two contested Law and the European regulations, a relationship which has been highlighted by all parties to this legal action.

Indeed, Article 104 of the Treaty of the European Community (current Article 126 of the Treaty on the Functioning of the European Union) established that "member States shall avoid excessive government deficits" (paragraph 1), specifying that "The Commission shall monitor the development of the budgetary situation and of the stock of government debt in the member States". The provision also identified those aspects of budgetary discipline that had to be observed to avoid an excessive deficit (paragraph 2) establishing the measures to be taken by the Council in case of non-compliance with the recommendations about deficit reduction (paragraphs 6 et seq.).

The decision of the European Council of 17 June 1997 about the Stability and Growth Pact and (EC) and the Council Regulations Nos. 1466/1997, of 7 July 1997, on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies, and 1467/1997, of 7 July 1997, on speeding up and clarifying the implementation of the excessive deficit procedure, are intended to specify the scope of the so-called Stability and Growth Pact. According to the preamble of the Regulation No. 1466/1997, the Pact "is based on the objective of sound government finances as a means of strengthening the conditions for price stability and sustainable growth conducive to employment creation." Therefore "firm political guidelines are issued... to adhere to the medium term objective of budgetary positions close to balance or in surplus, to which all Member States are committed, and to take the corrective budgetary action they deem necessary to meet the objectives of their stability and convergence programs". Also, the Pact complements "the multilateral surveillance procedure of Article 103 (3) and (4)". In this context, the preamble of Regulation No. 1467/1997 points out that "it is necessary to speed up and to clarify the excessive deficit procedure set out in Article 104 C of the Treaty in order to deter excessive government deficits and, if they occur, to further their prompt correction". Therefore, "there is a need to establish deadlines for the implementation of the excessive deficit procedure. … in the event that a participating Member State fails to take effective action to correct an excessive deficit … to impose sanctions, if necessary, seems both feasible and appropriate in order to exert pressure on the participating Member State concerned to take such action".

It is easy to appreciate the relationship among the Law 18/2001, on Budgetary Stability, the Organic Law 5/2001, both at issue in the present case, and the Stability and Growth Pact developed in Article 104 C of the European Union's Treaty. Thus, the preamble of Law 18/2001 declares that after "Spain access to the Economic and Monetary Union in 1999, which resulted in a significant structural change in the behaviour of our economy…, budgetary policy will continue to play a key role in this economic policy orientation, for which it is necessary to lay the foundations of this new phase when the budgetary stability shall be the permanent stage of Spanish government finances… In this sense, the Stability and Growth Pact, approved in the Amsterdam Council in June 1997, limits the use of the public deficit as an instrument of economic policy within the Economic and Monetary Union. According to the Pact, Member States are committed to purse the medium-term objective of budgetary positions close to balance or in surplus." "The aim of this economic policy would be fruitless in a strongly decentralised country like Spain", according to the preamble, "if the efforts made by the State were not simultaneously carried out by all public administrations". That's why these measures were approved as basic regulations "pursuant to what is set out in Articles 149.1.13, 149.1.18, 149.1.11 and 149.1.11 of the Constitution". Finally, we must also highlight that the preambles of Law 18/2001 and Organic Law 5/2001 justify the approval of both legal instruments and the status of ordinary law given to the former and of organic law attributed to the latter in the fact that the Law 18/2001 aims to ensuring the fulfilment of the objective of budgetary stability in the state public sector

and local entities, whereas the Organic Law 5/2001 establishes the mechanisms that guarantee the effective coordination and cooperation between the State and the Autonomous Communities in order to achieve a common objective .

Accordingly, the scope of Law 18/2001 is described in Title by reference to the notion of "public sector" in its different expressions (i.e., General Administration of the State, entities of the Social Security System, administrative bodies of the Autonomous Communities and local governments —including their instrumental organizations—, as well as public companies, corporations and other public law entities), and the general principles of law, including "budgetary stability" as defined by Article 3. This principle is the central issue of the present action of unconstitutionality. Title II of the Law 18/2001 regulates the budgetary balance of the public sector in general and its scope regarding the state public sector (neither of these aspects has been contested by the claimant). The Law also refers to the local public sector; reference discussed in the present action as well as the sole additional provision of Law 18/2001, which amends Law 39/1988, December 28th, on local government finances.

For its part, the Organic Law 5/2001 proclaims as objective the establishment of mechanisms for the cooperation between the State and the Autonomous Communities in order to achieve the aim of budgetary stability (Article 1). Article 2 refers to the definitions of this principle and those of pluri-annuallity, transparency and efficiency contained in the Law 18/2001. This same Article 2, along with Articles 5, 6 and 8, which regulate the implementation of the objective of budgetary stability by the Autonomous Communities, the functions conferred to the Fiscal and Financial Policy Council of the Autonomous Communities and the procedure for the correction of the positions of budgetary imbalance, are broadly contested by the Parliament of Catalonia. The action of unconstitutionality comprises the final provision, that amends the Organic Law 8/1980, September 22nd, on the Financing of the Autonomous Communities.

6. Once established the connection between the two contested Laws and the European Regulations that stress the different parties to this process, we must note that in accordance with our case-law, "even though the contested provisions articulate or apply sources of secondary European Law … the criteria for the resolution of these conflicts are exclusively those of our domestic Law, which defines the distribution of competences between the State and the Autonomous Communities, since, as this Court has stated on previous decisions (Judgments of the Constitutional Court [in Spanish: Sentencias del Tribunal Constitucional, i.e.: SSTC] 252/1988, 64/1991, 76/1991, 115/1991 and 136/1991), the transposition of Community Law into domestic law must necessarily follow the constitutional and statutory criteria of the distribution of competences between the State and the Autonomous Communities, ... which are not amended by the access of Spain to the European Economic Community or by the approval of European regulations, because the assignment of competences in favour of European bodies does not imply that the national authorities cease to be subject to the Constitution and to the rest of the legal system, as laid down in article 9.1 of our Fundamental Norm" (STC 79/1992, dated May 28th, Ground [in Spanish: fundamento jurídico, i.e.: FJ] 1).

With this starting point, it is important to add that "we cannot ignore 'the need to provide the National Government with the indispensable instruments for the role attributed to it by the Article 93 CE' (STC 252/1988, FJ 2)" (STC 79/1991, FJ 1), but we must take into account that "the integration of Spain into the European Economic Community does not mean that for the sake of Article 93 has endowed the rules of European Community law of constitutional rank and strength, not it means that any breach of those standards by a Spanish provision involves necessarily a violation of the cited Article 93 CE (STC 28/1991, FJ 4)" (STC 64/1991, dated March 22nd, FJ 4).

7. The above pointed out; it is time to frame the contested regulations in the constitutional order of competences. Law 18/2001 proclaims in its second final provision that it is covered by the State competences regulated in Article 149.1.13 and 149.1.18 CE (paragraph 1), and also by

those contained in Article 149.1.11 and 149.1.14 (paragraph 2). As regards to the Organic Law 5/2001, although it does not specifies the competences that State exercises with its approval, its preamble, apart from stating that the Organic Law "aims to establish mechanisms for the coordination between the public finances of the State and those of the Autonomous Communities as indicated by Article 156 of the Constitution", indicates that it must be constructed jointly with the Law 18/2001.

The parties to these procedure agree that the most specific provision enabling the State to pass both Laws is article 149.1.13 CE, though the claimant considers that the State Legislature has overstepped its jurisdiction. Thereon, it must be taken into account that we have stated that the preambles of the rules are an essential aspect to construct the framework of competences (STC 193/1984, dated July 23rd, FJ 4), but that doesn't mean that this Court is bound by the criteria expressed in those preambles (STC 152/2003, dated July 17th, FJ 7, quoting STC 144/1985, dated April 25th, FJ 1). More specifically, we must also recall that we have stated, with regard to the framework for rules relating to the European Law, that paying attention to how an institution has been configured by European rules "may be not only be useful, but even compulsory to apply the internal competence distribution scheme correctly" (STC 13/1998, dated January 22nd, FJ 3).

In this case, the preambles of the EC Regulations Nos. 1466/1997 and 1467/1997 show that budgetary stability constitutes an essential element of the European economic policy in budgetary matters Therefore, the European institutions are required to monitor "the consistency of economic policies [of the Member States] with the broad economic guidelines referred to in Article 103 (2) [of the Treaty]" (preamble of EC Regulation 1466/1997). Likewise, the preamble of Law 18/2001 establishes that "budgetary policy will continue to play a key role in the economic policy direction" relating to the Economic and Monetary Union of 1999.

There is no doubt, therefore, about the importance that Article 149.1.13 CE has in providing the State with jurisdiction to establish basic regulation and coordination of the general planning of economic activity, which is a competence that empowers the State to order both the overall economy and its different sectors (STC 197/1996, dated November 28th, FJ 4) and also includes budgetary matters. However, the *a priori* conclusion that this competence is the most specific regarding all the challenged provisions cannot be reached. Thus, in accordance to our case-law, the establishment of maximum expenditure budget ceilings in specific matters "is justified by the competence regulated in Article 149.1.13 CE, and the principle of coordination, which is a limit to the financial autonomy of the Autonomous Communities (Article 156.1 CE), with the scope provided for by Article 2.1 b) of the Organic Law on the Financing of the Autonomous Communities (STC 103/1997, FJ 1)" (STC 62/2001, dated March 1st, FJ 4). It cannot be ignored, on the other hand, that we have highlighted the connection between the financial autonomy of the Autonomous Communities and the exclusive State competence over general public finances foreseen in Article 149.1.14 CE (STC 31/2010, dated June 28th, FJ 130).

In conclusion, the State has the competence to enact the appealed Laws in accordance with Articles 149.1.13 and 149.1.14 CE; other competences involved (for example, Articles 149.1.11 and 149.1.18 CE). However, we must analyse whether every challenged provision respects the jurisdiction devolved to the Autonomous Communities and, in particular, their political and financial autonomy (Articles 137 and 156.1 of the Statute of Autonomy of Catalonia), expressly invoked by the Parliament of Catalonia in this procedure.

We must also take into account that the current Statute of Autonomy of Catalonia establishes in its article 201 that "taxation and financial relations between the State and the Gernalitat are regulated by the Constitution, by this Statute of Autonomy and by the Organic Law referred to in Section 3 of Article 157 of the Constitution". Besides, Article 203.1 of the Statute of Autonomy of Catalonia determines that "the Generalitat has the capacity to determine the volume and composition of its revenues falling within its financial powers, and also to freely apply its

resources to expenditure items as it deems fit." More specifically, on budgetary matters, Article 214 states that "the Generlitat is responsible for setting limits and conditions for achievement of the aim of budget stability, within the principles and regulations of the State and the European Union." Finally, Article 213.1 establishes that "the Generalitat may have recourse to loans and may issue public debt to finance expenditure, within the limits set by the Generalitat itself and respecting the general principles and State regulations."

8. Taking into account what we have already said, we shall now analyse whether the provisions above reproduced violate, as sustains the representation of the Parliament of Catalonia, the political and financial autonomy of the Generalitat of Catalonia because they override the competences attributed to the State by Article 149.1.13 CE.

a) Article 3.2 of the Law 18/2001 defines the principle of budgetary stability "in relation to the subjects referred to in article 2.1 of this Law", i.e., with respect to the type of entities belonging to the public sector: the General Administration of the State, entities of the Social Security System, administrative bodies of the Autonomous Communities and local government, as well as the remaining instrumental public entities of any kind. Budgetary stability is conceived by the provision as a "position of balance or surplus", calculated according to the European system of national and regional accounts. This definition is criticized insofar as it applies to the preparation and approval of the budgets of the Generalitat of Catalonia.

The first thing that should be noted is that this definition of "budgetary stability" is designed as a general economic policy goal that the State can establish in accordance with Article 149.1.13 CE; even though when acting under this competence the State must respect the political and financial autonomy of the Autonomous Communities. In this regard, we must consider that the political autonomy of the Autonomous Communities (Articles 2 and 137 CE) has been described in our case-law as the "ability to self-government, expressed especially in the possibility of developing their own policies on matters within its range of competence" (STC 13/1992, dated February 6th, FJ 7). This autonomy also "has and extremely important economic aspect … In other Judgements (SSTC 63/1986, 2013/1988 and 96/1990) we have explained that this autonomy implies that the incomes are fully available without undue constraints so that the communities can develop their own competences, particularly, the exclusive ones. The Constitution has not only recognised the freedom to establish the plan of income and expenses but has also defined its limits" (STC 237/1992, dated December 15th, FJ 6). To sum up, the financial autonomy of the Autonomous Communities, understood in this sense, "does not exclude, the existence of controls, even specific ones" (STC 96/1990, dated May 24th, FJ 14), although we have also stated that an improper limitation of such financial autonomy is represented by "State interventions performed with rigorous controls that are not obviously essential to ensuring the coordination of autonomic policy in a given economic sector with national planning" (STC 201/1988, dated October 27th, FJ 4).

Based on what we have already said the first criticism against art. 3.2 of Law 18/2001 lay in the definition of budgetary stability as a position of "balance or surplus" whereas European Law does not regard it in that manner. This criticism cannot prosper. As we warned European Law does not enjoy status of parameter of constitutionality in our national law, since "this Court has no jurisdiction to solve the conflicts that can arise between national provisions and the European Union legal order (STC 28/1991, FJ 5; in the same sense, STC 64/1991)" (STC 147/1996, dated December 19th). We can deepen in this reasoning if we take into account that this Court does not examines the wisdom of technical decisions taken by public authorities but only whether such decisions have been made within the order of competences defined by the Constitution and with respect to the rest of the constitutional rules and principles [SSTC 244/1993, dated July 15th, FJ 3 c) and 197/1996, dated November 28th, FJ 8, among many others].

In any case, it should be noted that this Court in STC 62/2001, dated March 1st, reiterating previous decisions, has considered legitimate the setting of budgetary limits for specific matters,

pointing out that this operation has two constitutional grounds. On one hand, the limits on the spending power "are endorsed by the State's competence relating the general direction of economic activity according to Article 149.1.13 CE (STC 96/1990, FJ 3). Furthermore, it is aimed at achieving economic stability and the gradual recovery of budgetary balance (STC 237/1992, FJ 3). Therefore, from the perspective of the distribution of competences, there should be no objection to the State for taking this decision within the budgetary Law, especially because it is far from being a mere set of accounting provisions; it does work as a vehicle for the direction and guidance of the economic policy promoted by the Government [SSTC 27/1981, FJ 2, 76/1992, FJ 4 a) and 171/1996, FJ 2)." On the other hand, the establishment by the State of maximum expenditure budget ceilings is another limit to the financial autonomy set up by the principle of coordination of the government finances foreseen in Article 156.1 CE and regulated by Article 2.1 b) of the Organic Law on the Financing of the Autonomous Communities which requires that the Autonomous Communities adjust their financial activities to the appropriate measures taken by the State aimed at achieving internal and external economic stability because it bears the responsibility of ensuring general economic balance (SSTC 171/1996, FJ 2 and 103/1997, FJ 1). Based on the principle of coordination delimited by the aforementioned Organic Law, it is possible, therefore, to justify that the State may establish an unilateral measure with general legislative force capable of affecting autonomous competences in budgetary matters, provided that it bears a direct relationship with the above-mentioned economic policy goals" (STC 62/2001, dated March 1st, FJ 4).

We must add that the constitutional legitimacy of the State to establish specific maximum expenditure budget ceilings binding to the Autonomous Communities when these prepare their budgets in accordance with Articles 149.1.13 and 156.1, together with Article 149.1.14 of the Spanish Constitution, also extends to the establishments of general budgetary ceilings when this decision is a mechanism of special relevance through which the State ensures general economic balance (STC 62/2001, FJ 4).

In conclusion, Article 3.2 of Law 18/2001 must be upheld, because the provision does not contain any other supplementary prescription to the general limit examined involving a breach of financial autonomy attributed to the Generalitat of Catalonia, especially when Article 214 of the Statue of Autonomy of Catalonia conditions the establishment by the Generalitat of limits to achieve the objectives of budgetary stability to those laid down by the State and European regulations.

b) Article 2 of the Organic Law 5/2001 sets out the guiding principles of the public sector budgetary order —budgetary stability, pluri-annuality, transparency and efficiency in the allocation and use of public resources— and does so by referring to what is established in Law 18/2001about each of those principles. Due to that only budgetary stability is being questioned, once the challenges to article 3.2 of the Law 18/2001 containing the scope of the principle of stability have been dismissed, the same should apply to the Article 2 of the Organic Law 5/2001. Hence, this Article must be upheld.

c) Article 5, second subparagraph, of the Organic Law 5/2001, is also challenged. The provision establishes that the Fiscal and Financial Policy Council of the Autonomous Communities and the Autonomous Communities themselves must respect the principle of budgetary stability set in Article 8 of Law 18/2001 (the constitutionality of this last provision has not been contested). The very same argument used to challenge Article 3.2 of Law 18/2001, which we have just examined, is used in this case.

Article 8 of Law 18/2001 establishes the procedure through which the goal of budgetary stability is set. This procedure involves the Government, the Fiscal and Financial Policy Council of the Autonomous Communities, and both Chambers of the National Parliament (Congress and Senate). Taking into account that this provision has not been challenged, Article 5, second subparagraph of Organic Law 5/2001 does not imply anything but a reiteration of the contents

of Article 3.2 of Law 18/2001 for the Generalitat of Catalonia, so that, as a consequence of what we have said with regard to this last provision, we must also dismiss this challenge.

d) Articles 6.3 and 6.4 of the Organic Law 5/2001 establish that, once the Government has set the goal of stability, the Fiscal and Financial Policy Council of the Autonomous Communities will determine the objective of budgetary stability corresponding to each of the Autonomous Communities. At the same time, it states that if an agreement is not reached within the Council, each Autonomous Community must approve and settle its budget in, at least, a position of balance. Again, the challenge against this provision shares the same ground with this whole group of provisions, ground that has previously been explained.

In our review, we must take into account that the Parliament of Catalonia does not refute paragraphs 1 and 2 of Article 6, which provide —by reference to art. 8.1 of Law 18/2001— that the fixation by the National Government of the objective of budgetary stability for the next three financial years must be preceded by a previous report of the Fiscal and Financial Policy Council of the Autonomous Communities. The provisions of paragraphs 3 and 4 of Article 6 of Organic Law 5/2001, which are challenged, begin to operate from this previous procedural stage, which has not been contested.

It should be noted that the Government agreement fixing the objective of budgetary stability has a double reference according to Article 8.1 of Law 18/2001: it has to set the goal of stability "for the entire government sector" on one hand, and "or each of the kind of entities included in Article 2.1 of this Law", on the other. We must note that, while paragraphs 1 and 2 of Article 6 of Organic Law 5/2001 refer to the intervention through its report of the Fiscal and Financial Policy Council of the Autonomous Communities, for the setting up by the Government of the objective of stability for "all the Autonomous Communities", paragraphs 3 and 4 of the same Article, which have been contested, establish that the Fiscal and Financial Policy Council of the Autonomous Communities shall "determine the objective of budgetary stability corresponding to each of the Autonomous Communities" and if the Council does "not reach an agreement," each Community will approve its own balanced. In short, the Parliament of Catalonia contests both the attribution to the Fiscal and Financial Policy Council of the Autonomous Communities of the power to determine the budgetary stability objective binding for the Generalitat of Catalonia (paragraph 3), and also, its ability to impose —in the absence of an agreement reached in Council— to the Generalitat of Catalonia of duty of passing its general budget at least in balance (paragraph 4).

When examining Article 3.2 of Law 18/2001 we said that, in accordance with Articles 149.1.13 and 156 CE, the State has the power to impose not only specific but also general budgetary ceilings binding for the Autonomous Communities. We must now consider whether the provisions of Articles 6.3 and 6.4 of Organic Law 5/2001, which involve the intervention of the Fiscal and Financial Policy Council of the Autonomous Communities in the fixation of these ceilings, infringe the financial and political autonomy of the Generalitat of Catalonia.

This Court has highlighted that the connection between Articles 133.1, 149.1.14 and 157.3 of the Constitution means that the State has the power to "delineate the financial attributions of the Autonomous Communities with respect to those of the State itself" (STC 31/2010, FJ 130), specifying that its power "is developed, through the coordination of the State itself, in a framework of cooperation between the latter and the Autonomous Communities" (STC 31/2010, FJ 135). This multilateral framework of coordination and cooperation in "financial" matters has been confirmed by our case-law, highlighting, in the examination of the financial self-sufficiency of the Autonomous Communities, that the decisions that should ensure it "have been generally and uniformly taken for the whole system and, therefore, by the State and within the State's sphere of action, unilateral decisions are not possible... because they would have repercussions over the whole... and constrain the decisions of other autonomic Administrations and the Administration of the State itself" (STC 31/2010, FJ 130, quoting SSTC 104/1988, dated June 8th, FJ 4 and 14/2004, dated February 13th, FJ 7). This conclusion can also be reached

when the budgetary mechanisms are at stake given the relevance of budgetary policy as an instrument of economic policy.

In this sense, the organic legislator (i.e., the Cortes Generales approving Organic Laws) which, among other functions, has assigned that of establishing "possible forms of financial collaboration between the autonomous communities and the State" (Articles 157.3 CE), has set up the Fiscal and Financial Policy Council of the Autonomous Communities, formed by the Minister of Economy and Finance, the Minister of Public Administration and the Finance Counsellors for each Autonomous Community (Article 3.1 of the Organic Law on the Financing of the Autonomous Communities), as the "coordinating body of the State and the Autonomous Communities in fiscal and financial matters" with the function of "coordinating the budgetary policies of the Autonomous Communities with that of the State" [Article 3.2 a) of the Organic Law on the Financing of the Autonomous Communities]. Similarly, Article 201 of the Statute of Autonomy of Catalonia establishes that the financial and fiscal relationships between the State and the Generalitat of Catalonia are regulated by the Constitution, the Statue of Autonomy itself and the Organic Laws foreseen in Article 157 of the Spanish Constitution.

Having said that, we must point out that there is no violation of the political and financial autonomy of the Generalitat of Catalonia in the provisions of Article 6.3 of Organic Law 5/2001, because the fixation of the "objective of budgetary stability corresponding to each of the Autonomous Communities" by the Fiscal and Financial Policy Council of the Autonomous Communities is a matter included, by its nature and scope, without any doubt in "the guarantee of economic balance, through general economic policy" [Article 2.1 b) of the Organic Law on the Financing of the Autonomous Communities] which has to be adopted "generally and uniformly for the entire system" according to our case-law. (STC 31/2010, FJ 130). This in no way limits the possibility that the Generalitat de Catalonia develops its own policies in matters of its jurisdiction, (a defining criterion of its political autonomy), nor does it question the financial sufficiency or the autonomy of expenditure that characterise its financial autonomy. However, both aspects of its autonomy should be reflected in budgets which respect the "objective of budgetary stability" to be set by the Fiscal and Financial Policy Council of the Autonomous Communities because, as we have already pointed out, its decisions are based on the competence attributed to the State by Article 149.1.13 CE and on its power as a financial coordination authority limiting the autonomy of the Generalitat of Catalonia, according to Article 156.1 CE.

This happens as well with regard to Article 6.4 of Organic Law 5/2001, which merely establishes that, if an agreement within the Fiscal and Financial Policy Council of the Autonomous Communities is not reached on the "individual objectives of budgetary stability" for each Autonomous Community, they must develop and settle their "balanced budgets" on their own because all the aforementioned reasoning is applicable to this provision.

In conclusion, Articles 6.3 and 6.4 of Organic Law 5/2001 are to be upheld.

e) Sections one, three and four of the sole additional provision of Organic Law 5/2001 is the last of the challenged provisions from this block, being blamed for violating the political and financial autonomy of the Generalitat of Catalonia. The contested sections contain various amendments to the Organic Law on the Financing of the Autonomous Communities.

Section one amends letter b) of paragraph 1 of Article 2 of the Organic Law on the Financing of the Autonomous Communities, and establishes that the State has to ensure economic balance and take the necessary measures to achieve internal, external and budgetary stability, meaning this a position of balance or surplus.

In order to judge the conformity of this provision with the Constitution we have to reiterate what was said when considering Article 3.2 of Law 18/2001 and the other provisions of this block. This Court has already recalled the competence of the State to "achieve internal and external economic stability, since it is its responsibility to ensure general economic equilibrium" (STC

62/2001 FJ 4, quoting SSTC 171/1996, FJ 2 and 103/1997, FJ 1), as well as its attribution to achieve "the gradual recovery of a balanced budget" (STC 62/2001, FJ 4, with reference to STC 237/1992, FJ 3), so that the concept of budgetary stability in terms of balance or surplus contained in the contested provision agrees with the competence attributed to the State by Articles 149.1.13 and 149.1.14 of the Spanish Constitution, a competence that is exercised within the multilateral framework of coordination and cooperation laid down by the Organic Legislator. We must therefore dismiss the challenges to this paragraph of the sole additional disposition of Organic Law 5/2001.

Paragraph three of this additional provision of Organic Law 5/2001, as it has been transcribed, gives a new wording to paragraph 3 of Article 14 of the Organic Law on the Financing of the Autonomous Communities, establishing that Autonomous Communities need authorisation from the State when they intend to arrange credit operations abroad or any other appeal to public credit, with the specification that credit operations carried out by the Autonomous Communities according to paragraphs 1 and 2 of art. 14 of Organic Law on the Financing of the Autonomous Communities also require State authorisation when "from the information provided by the Autonomous Communities, the breach of the budgetary stability objective can be ascertained." The challenge to this provision as well as to the remaining provisions of this group relies exclusively on the rejection of the scope of the principle of budgetary stability.

This provision is not contested because it establishes the rule that certain credit transactions must be authorised by the State (a rule already present in Article 14.3 of the Organic Law on the Financing of the Autonomous Communities since its first draft of 22 September, 1980), but that they should be authorised in all cases where "the breach of the objective of budgetary stability can be ascertained." We have already established that the powers of "any Autonomous Community in matters of public debt issuance should be framed within the basic principles of the economic order constituted by or resulting from the so-called *economic Constitution*, (this Constitutional Court referred to it in its judgment 1/1982, dated January 28th, positive competence conflicts Nos. 63 and 191/1981, consolidated), and especially regarding the more specific field of government financial activity, field that should frame the present case. We have already established as well that the powers of "any Autonomous Community in matters of public debt issuance must conform to the principle of coordination of the finances of the Autonomous Communities with those of the State, as formulated by Article 156.1 CE" (STC 11/1984, dated February 2nd, FJ 5).

In that same resolution, we stated that art. 14.3 Organic Law on the Financing of the Autonomous Communities in its first draft —which established that the authorisation of the State was necessary when the Autonomous Communities sought to "set up credit operations abroad and for the issue of debt or make any other appeal to public credit"— configured "a State power in accordance with the principles to which we referred in the previous basis, and in particular, in accordance with the coordination of the finances of the Autonomous Communities with those of the State and the requirement for a uniform economic policy. These principles and others formulated by the Constitution are referred to in Article 2.1 of the Organic Law on the Financing of the Autonomous Communities itself. Article 3.2 e) of the same Organic Law conferred on the Fiscal and Financial Policy Council of the Autonomous Communities, as a consultative and deliberative body, attribution for coordinating debt policy. But the coordination of the financial activity of the Autonomous Communities and, in particular, of their respective debt policies, is not exhausted —as it was claimed by the representative of the Basque Government— by issuing non-binding reports, but the integration of the diversity of the parties into a unified whole, pursued by the coordination activity —a notion referred to by this Constitutional Court in its judgment of 28 April 1983 (positive competence conflicts numbers 94 and 95/1982, FJ 2)—, requires the adoption of the measures necessary and sufficient to ensure such integration. Hence, authorisations for the issuance of public debt referred to in

Article 14.3 of the Organic Law on the Financing of the Autonomous Communities can be considered as means at the service of the aforementioned coordination. On the other hand, these authorisations can also be seen as decisions of special bearing at the service of a single monetary policy, whose adoption corresponds exclusively to the State in accordance with Article 149.1.11 of the Constitution" (STC 11/1984, FJ 6). We have reiterated this idea when examining the access to credit by the Autonomous Communities in STC 87/1993, dated March 11th, FJ 3 b).

In view of our case-law, the necessary authorisation of the State for any credit operations that the Autonomous Communities may be intending to perform, where a failure to comply with the objective of budgetary stability could be ascertained through the information provided by the Autonomous Communities themselves, as established in the provision being challenged, does not violate the political and financial autonomy of the Generalitat of Catalonia. This is because that political and financial autonomy is limited by the competences attributed to the State in Articles 149.1.11 and 149.1.13 CE —Article 213.1 of the Statute of Autonomy of Catalonia expressly recognises this by limiting the borrowing of the Generalitat to what is set out in State legislation— especially where the credit operations of the Autonomous Communities "should be coordinated among themselves and with State debt policy within the Fiscal and Financial Policy Council of the Autonomous Communities", according to paragraph 4 of Article 14 of the Organic Law on the Financing of the Autonomous Communities itself. We must therefore dismiss the challenge to paragraph three of the sole additional provision of Organic Law 5/2001.

Finally, the constitutionality of section four of the sole additional provision of Organic Law 5/2001 is also discussed. This section establishes that the budgets of the Autonomous Communities should be prepared annually in synchronisation with those of the State, as well as they are subject to the principle of budgetary stability, in addition to other technical aspects. The principle of stability is the only aspect challenged, and the section must be upheld following the same rationale as in the previous cases.

In short, the challenge of sections one, three and four of the sole additional provision of Organic Law 5/2001 must be dismissed.

11. Having already addressed the review of the contested provisions, we will begin with Articles 8.2, 8.3, 8.4, 8.5, 8.7 and 8.8 of the Organic Law 5/2001, noting that their contents are consistent with the amendment to Organic Law on the Financing of the Autonomous Communities that is contained in paragraph two of the sole additional provision of the same Organic Law 5/2001, so that both challenges are closely interrelated.

Article 8.1, which has not been challenged, establishes that the Autonomous Communities that do not approve their budgets in a "balanced position shall be obliged to prepare a medium term financial/economic improvement plan to correct their position". This improvement plan must be submitted to the Fiscal and Financial Policy Council of the Autonomous Communities. The complaint about the contested paragraphs focuses on the fact that the Council will assess the appropriateness of the measures contained in the plan and their adjustment to the goal of stability and, additionally, that it can require that Autonomous Community submits a new plan should the first not be considered satisfactory. The same procedure must be followed when the failure to comply with the goal of stability is found in the budget implementation, not in its preparation.

Therefore, based on the legitimacy of the State to proclaim the principle of budgetary stability, we must recognize equal legitimacy to the criterion that, when it has been ascertained that this principle has not been met at the time of the approval of public budgets, or any breach during the implementation of budgets is found, the State imposes the preparation of a financial plan to correct the imbalance by the corresponding Autonomous Communities in accordance with Article 149.1.13 CE. Not to do so would be to render the goal of stability ineffective and, consequently, the aforementioned competence of the State to ensure the equilibrium of general

economic policy (STC 62/2001, FJ 4, with reference to others). Ultimately, the preparation of the plan is a consequence linked to the failure to meet the objective of stability and this appeal is not opposed to it.

As regards the fact that the economic/financial plan would be submitted, in order to assess the adequacy of the Autonomous Community's measures by the Fiscal and Financial Policy Council of the Autonomous Communities (a body that, as we have been insisting, acts within the constitutional framework of coordination and cooperation between the State and the Autonomous Communities in financial matters) cannot be complained about because the plan's adequacy has a necessary impact on the budgetary stability of the State itself and the other Autonomous Communities, which may be undermined if it is found to be unsuitable.

It should be stressed once again that "coordination is expressly included in various provisions of the Constitution among the State's attributions, to the extent established in each of them and, in such cases in which there is an express constitutional attribution, the scope of the agreements of the coordinating bodies will be that which derives from the exercise of the corresponding competence" (STC 76/1983, FJ 13). Nevertheless, in this case Articles 149.1.13 and 149.1.14 of the Spanish Constitution, but also coordination in financial matters (Article 156.1 CE) and the collaboration established by the Organic Legislator (Article 157.3 CE) directly affect the competences of the State. These measures affect all Spain and therefore "must be adopted generally and uniformly for the entire system" (STC 31/2010, FJ 130), generality and uniformity which are reflected in the Fiscal and Financial Policy Council of the Autonomous Communities.

At this point we should bring up the criteria contained in STC 227/1988, FJ 20 d), criteria that we have reproduced in the previous grounds of this judgment, because its application is due to a similar approach in constitutional terms though here we are addressing a materially different case of distribution of competences. Indeed, the assessment by the Fiscal and Financial Policy Council of the Autonomous Communities of the adequacy of the economic-financial plan's measures cannot be considered a simple control mechanism of the budgetary activity of the Autonomous Communities. This is because budgets of the Autonomous Communities, in the same way as it happens with the river basin management plans considered in STC 227/1988, "affect the activity of different Public Administrations —those of the Autonomous Communities, in the first place, but also those of the State and other territorial and institutional bodies— and their direct relationship both with the general planning of economic activity as well as the obligation to respect them which affects all the Autonomous Communities is clear." If each Autonomous Community was to freely and without uniformity implement their measures of adaptation to the objective of budgetary stability —in this case breached— that objective would be difficult or impossible to achieve. It is, therefore, through coordination measures within the body established by the institutional legislator in compliance with the Constitution (Article 157.3 CE), that observance of the economic policy of State budgetary stability is ensured. That compliance also satisfies, as we shall see below, the general scope of coordination between the State and the Autonomous Communities according to our case-law.

Indeed, the appraisal done by the Fiscal and Financial Policy Council of the Autonomous Communities to assess whether the economic and financial plans drawn up by these are adequate or not to achieve the budgetary stability objective stops there, that is, it does not mean that when the appraisal is negative the attribution of the Autonomous Community for preparing the plan shall be usurped. Such usurpation would be unconstitutional (STC 118/1986, dated June 27th, FJ 18, among many others). The Autonomous Community is summoned to elaborate a new plan. We have recognized that the State has the power to summon Autonomous Communities to take some actions because this technique consists of "communicating the anomaly to the competent governmental organ so that it repairs the non-compliance detected" (STC 6/1982, FJ 9). In short, it is no more than an instrument allowing the State "to ensure that there are no differences in the execution or implementation of the normative block", because

“even within federal systems themselves, a number of powers attributed to the federal bodies are recognised and these ultimately define a surveillance function that the Federation exerts over the executive actions of the Member States” (STC 76/1983, FJ 12).

In short, this is a coordinating role that emanates from the coordinating and collaborating body itself, established by the Organic Legislator in accordance with the Constitution, since coordination “pursues the integration of the diversity of the parts or subsystems into the grouping or system, avoiding contradictions”, so that relationships are established to “make mutual information, technical uniformity in certain aspects, and the joint action of the State and community authorities... possible in the exercise of their respective attributions.” (STC 194/2004, dated November 4th, FJ 8; with reference to STC 32/1983, FJ 2)

In accordance with what has been pointed out, the necessary preparation by the Autonomous Communities of the economic-financial plans when autonomic budgets are approved or settled with imbalances does not violate the financial autonomy of the Autonomous Communities. Neither does the review of the same by the Fiscal and Financial Policy Council of the Autonomous Communities and the [requirement] of submitting a new plan when the previous one does not ensure that the goal of stability will be achieved. The same applies when, given the unforeseen circumstances referred to in paragraph 8 of Article 8, the Autonomous Community itself submits an amending plan to the Fiscal and Financial Policy Council.

Insofar as paragraph two of the sole additional provision of Organic Law 5/2001, that amends Article 3.2 b) of the Organic Law on the Financing of the Autonomous Communities is concerned, we must apply the same criteria to reject the challenge. The reason lies on the conformity to the Council powers of coordination and cooperation of the attribution to the Fiscal and Financial Policy Council of the Autonomous Communities of the power to issue reports and adopt agreements relating to the effective implementation of the objective of budgetary stability. This reason finds support in the explanations above.

In conclusion, the challenges to paragraphs 2, 3, 4, 5, 7 and 8 of Article 8 and paragraph 2 of the sole additional provision, of Organic Law 5/2001 must be rejected.

14. In accordance with the above reasoning, we can examine whether Articles 3.2, 19, 23.2, and paragraph two of the sole additional provision of Law 18/2001 have incurred in unconstitutionality as denounced:

a) Articles 3.2 and 19 respectively, establish the scope of the principle of budgetary stability — insofar as the reason they are being challenged is concerned— for local governments and the obligation to adjust their budgets to observe this principle.

We must insist that, as has been established by the prior Ground 8 a), that budgetary policy forms an essential part of general economic policy, whose management, in turn, is allocated to the State by the Constitution (Article 149.1.13 CE). It is also obvious that with this attribution the State can influence all governmental budgets. This determines the full applicability of Articles 3.2 and 19 of Law 18/2001 to local governements, insofar as said applicability does not violate either their political or financial autonomy. It does not breach their political autonomy because these provisions do not question the setting of local policies, in accordance with what has been established in each case by the competent State or regional legislator: it merely sets out the budgetary framework within which such policies are implemented. In short, the right recognized to local governments to intervene in matters concerning them (STC 214/1989, FJ 1) is not questioned by the fact that they are subject to constitutional provisions, which include the establishment by the State of the management, in accordance with Article 149.1.13 CE, of those same government budgets. Therefore, within this limit, local governements can intervene by way of their own bodies in different material areas within the scope which state or regional laws have established (STC 214/1989, FJ 3). This is recognised by Article 19.2 of Law 18/2001 providing that local entities “within the scope of their powers, will adjust their budgets to the goal of

stability" and this goal does not prevent them from exercising the "competences ('notwithstanding') which for this matter have been granted to the Autonomous Communities."
Neither provision violates the local governement financial sufficiency because they do not interfere with the resources that the State must put at their disposal through the participation of such entities in State taxes (STC 237/1992, FJ 6).
Therefore, it is appropriate to dismiss the challenges to Articles 3.2 and 19 of Law 18/2001.
b) Article 23.2 establishes that, when there is a budgetary imbalance, the authorisation of credit operations and debt issuances (Article 54 of Law 39/1988, on local government finances) will be subject to the condition that this imbalance must disappear in three fiscal years through the economic and financial plan that local entities are obliged to present in such a case, in accordance with the ruling Article 22.
We must start from the point that the claim has not included Article 22 among the provisions affected by the alleged unconstitutionality here discussed, although the Parliament of Catalonia considers that it incurs in the defect of violating the financial responsibility that the Generalitat of Catalonia can exert over the local entities within its territory. We will examine later this defect.
For the purposes of judging the constitutionality of Article 23.2 we should now point out that the obligation to prepare a financial plan that facilitates the correction of the imbalance established in Article 22.1 for local governments who have not fulfilled the goal of budgetary stability is legitimate in constitutional terms, according to what we have stated in our prior Ground 11.
Addressing now the challenges made to Article 23.2, we must start from our case-law on authorisations for the use of credit by local authorities, according to which "the setting of limits to the indebtedness of local authorities is equally compatible with local self-government and that those operations, when such limits are exceeded, be subject to authorisation" [STC 57/1983, dated June 28th, FJ 4, quoting STC 4/1981, FJ 15 f)]. In this same judgment we warned that indebtedness and the recourse to credit by local governments affects "the management of credit and the economy as a whole, so that in order to avoid alterations to financial economic balance it is necessary that the State articulate the various components of the system by imposing limits on indebtedness and other constraints on local entities. The prevalent attributions would then be those relating to credit and economic activity." We concluded that the State's attributions "are not exhausted in the legislative level because when the preservation of uniformity demands supplementary, and even executive, regulation reserving these competences is justified to a certain extent. The provision we are now studying is concerned with the authorisation and control of indebtedness and the opportunity to resort to credit, within an overarching financial policy. The power to authorise or not a credit transaction that implies breaching the normal cap imposed on indebtedness must be attributed to the authority responsible for economic equilibrium. Therefore, the act of authorisation may mean preventing the harmful consequences that local authorities may befall through excessive borrowing, those aspects affecting the entirety must be emphasised, and, in our view, the competences under Articles 149.1.11 and 149.1.13 CE should be invoked." (STC 57/1983, FJ 7).
We followed the same criterion in examining Article 54 of the Law on local government finances (now Article 53) that "in its first paragraph subjects to the authorisation of the competent bodies of the Ministry of the Economy and Finance in accordance with state competence guaranteed by Articles 149.1.11 and 13 CE since they may influence credit policy and economic balance (STC 57/1983) those credit operations to be arranged abroad and those implemented via debt or any another appeal to public credit. Moreover, the second paragraph attributes such authorisation to the bodies of the Autonomous Communities who have competence in the matter when credit agreements and the granting of endorsements in general are concerned. Thereby it is ensured, in the case of the Autonomous Community of Catalonia, its competence for financial supervision of local authorities as recognised by Article 48.1 of the Statute of Autonomy of Catalonia, which

influences indebtedness transactions that do not transcend local interests (STC 56/1983). In the light of both sections, it seems evident that Article 54.3 of the Law on local government finances does nothing but set the necessary autonomous margin of indebtedness, that should also be recognised for local authorities, by applying the compulsory constitutional principle of local self-government within the basic state attribution framework of Article 149.1.18 CE. Therefore the provision must be upheld." (STC 233/1999, dated December 16th, FJ 21)

Article 23.2 (connected to Article 23.1, which is not contested) does not prejudice the competent authority from granting the authorisation of credit operations, but only imposes the condition that said authorisation should entail the disappearance of the budgetary imbalance in accordance with what is established in the economic and financial plan. We, therefore, have a provision of financial management of credit and debt issuance operations carried out by local entities, which finds legitimate coverage in Article 149.1.11 and 13 CE, in accordance with the doctrine we have reproduced and which does not involve an infringement of the autonomy of such entities or their financial sufficiency, since both are subject to the limits associated with the powers of the State that we have highlighted.

We must therefore dismiss the challenges to Article 23.2 of Law 18/2001.

c) The amendment made to art. 146.1 of the Law on local government finances by the sole additional provision, paragraph two, of Law 18/2001, lays down the criteria to which the "statements of income and expenditure" and "bases of implementation" of the budgets of local authorities must be subject with the purpose of meeting the fulfilment of the goal of budgetary stability.

That "the credits required to meet the compliance obligations" are duly specified in the "expenditure statements" of the local budgets and that the "income statements" of these same budgets contain an "estimation of the different resources to be liquidated during the financial year", are details, which like those of the budgets' "bases of implementation", find their *raison d'etre* in the management of local budgets that can be set by the State in accordance with Articles 149.1.14 and 149.1.18 CE. Therefore "The shared nature of the competences that, in terms of local finances, the State and the Autonomous Communities which, like Catalonia, have assumed via their respective Statutes of Autonomy the powers necessary to develop the state 'bases' over the legal regime of the public administration in accordance with Article 149.1.18 CE, an enabling provision that allows the State to exercise its competences in this matter where its regulation involves introducing amendments with a general scope in the legal regime of local administration or sets out a guarantee of autonomy, which is constitutionally guaranteed, can be asserted without difficulty. As a consequence, and since frequently the regulation of local finances is called upon to influence such a legal regime, the State can only regulate such matters in a timely and exclusive manner by using the other competence referred to in Article 1.1 of the Law on local government finances, i.e., that concerning general government finances of Article 149.1.14 CE. This will happen, in those cases when state legislation is intended to regulate institutions common to the various financial authorities or coordination measures between State and local authorities. Or, additionally, when its purpose is to safeguard the financial adequacy of local finances, as guaranteed by Article 142 CE, as budgets, which are indispensable to the exercise of local self-government recognised by Articles 137, 140 and 141 of the Spanish Constitution" (STC 233/1999, FJ 4, quoting SSTC 96/1990, 237/1992, 331/1993 and 171/1996).

The regulations of local budgets contained in the contested provision are mere technical specifications, which do not violate local self-government or the adequacy of local finances, since they do not put in question the intervention of local authorities in matters in which they have an interest, neither involve any reduction of their resources.

Accordingly, the challenge made to paragraph two of the sole additional provision of Law 18/2001 must be dismissed.

17. From the foregoing it can be deduced that since Articles 20.2 and 22.2 of Law 18/2001 establish certain executive State interventions in respect of local governments in relation to the goal of budgetary stability, we have to clarify whether such State interventions are in accordance with the Constitution.

a) Article 20.1, which has not been contested, attributes to the Government, at the proposal of the Ministry of Finance, the setting of the objective of stability for local authorities. Setting this goal requires a previous report from the National Commission for Local Administration, according to paragraph 2 of this provision. The intervention of the National Commission of Local Administration has been contested because the Autonomous Communities and, therefore, the Generalitat of Catalonia, do not form part of this Commission.

This Court has already ruled on the setting up of the Commission for Local Administration as a standing collaborative body between the State and local Administrations, stating that "there is no constitutional impediment to the Law on local government finances setting up this Commission as a body of direct relationship between the State and the local governments in whose composition the presence of the Autonomous Communities is excluded". Since the dual nature of the local regime allows that, "the State can engage in direct relationships with local authorities, as already stated by the Constitutional Court in STC 84/1982 (FJ 4) and this because the constitutional configuration of the local regime does not allow considering it either as intra- or extra- regional. And, although it is advisable that these potential relationships among the State and the local authorities do not entail, as far as it is possible, the exclusion of the Autonomous Communities, which is supported, moreover, by the principle of inter-administrative collaboration, it is no less true that attention should be paid to the effectiveness and operational capacity of those collaborative bodies which agglutinate various political and administrative bodies" (STC 214/1989, FJ 29).

It should not be forgotten that setting the objective of budgetary stability engages the state competence under Article 149.1.13 CE that is projected on the triple territorial level of our legal system: State, regional and local. Likewise, in the same way in which in the process of setting the goal of budgetary stability of the Autonomous Communities occurs with the intervention of the Fiscal and Financial Policy Council (Article 6, in accordance with Organic Law 5/1981) and where the Autonomous Communities are represented; hearings by the National Commission for Local Administration serve exclusively the efficiency and operability of the exercise by the State of its own competence and do not diminish the powers and responsibilities of the Autonomous Communities with respect to local governments.

Therefore, Article 20.2 of Law 18/2001 must be upheld.

b) Article 22 regulates the correction of situations of budgetary imbalance of local authorities, both if the imbalance occurs in their approval or in the implementation. The correction is made through the adoption by the local government of a financial plan that shall be submitted to the Ministry of Finance, which will carry out the follow-up of the imbalance's correction.

These direct relationships —without the intervention of the Generalitat of Catalonia, therefore— between the State and the local authority do not violate the latter's financial responsibility in this case. Indeed, in the same way that our precedent Ground 15 has recognised, according to our case-law, the legitimacy of State regulation establishing the authorisation of credit operations arranged out by local entities and, even, the authorisation of these operations by the State, due to the special impact that a credit issuance has on the economic and financial equilibrium, and therefore on the economy as a whole as well, the same conclusion must be reached now on the regulation of local budgetary imbalance corrections, including the intervention of the Ministry of Finance. This is influenced by the fact that both the compulsory preparation of the economic and financial plan and the intervention of the Ministry of Finance —this last being the specific object of this challenge— are manifestations of the principle of coordination of State competence, coordination which, as we pointed out previously in Ground 11, can lead to monitoring, without

entailing the replacement by the State of the local entity thus affected. In any case, the provision safeguarding the financial responsibility of the Generalitat of Catalonia in this matter, allows it to intervene, provided that it does not interfere with the attribution of the State.

In conclusion, Article 22.2 of law 18/2001 does not violate the financial supervision that the Generalitat of Catalonia is called to exercise over local authorities and, therefore, the challenge must be dismissed.

RULING

For all of the above, the Constitutional Court, by the authority vested in it by the Constitution of the Spanish Nation,

Has decided to

Dismiss the appeal of unconstitutionality made against Law 18/2001, dated December 12th, on Budgetary Stability and Organic Law 5/2001, dated December 13th, supplementary to the Law on budgetary stability.